

Summary of the Louisiana Campaign Finance Disclosure Act for PACs

I. Introduction to the Campaign Finance Disclosure Act (CFDA)

A. Purpose (R.S. 18:1482)

1. Provide public disclosure of the financing of election campaigns
2. Regulate certain campaign practices
3. Insure a knowledgeable electorate
4. Promote confidence in elected officials

B. Administration (R.S. 18:1511.1 et seq.)

1. Supervisory Committee on Campaign Finance Disclosure
 - a. prepares and distributes forms (reports must be submitted on these forms, on forms specifically authorized by the Supervisory Committee, or electronically)
 - b. receives reports and makes them available to the public (\$.25 per page for copies or access through the Board's website at www.ethics.state.la.us)
 - c. enforces Campaign Finance Disclosure Act (CFDA)
 - d. issues advisory opinions interpreting the CFDA

II. Political Committee Registration Requirements (R.S. 18:1491.1)

- A. R.S. 18:1483 ((14) defines “**Political Committee**” as two or more persons, other than a husband and wife, and any corporation organized for the primary purpose of supporting or opposing one or more candidates, political parties, propositions, or recall efforts which has financial activity in excess of \$500 within a calendar year in the name of the committee. It also includes any corporation or group that accepts payments for personal services related to an election or campaign in excess of \$500 during a calendar year unless it has been permitted or licensed to provide that type of service and has been regularly doing so in the area at least 90 days prior to the services being rendered. “**PAC**” is a term of art used to refer to political committees supporting or opposing multiple candidates or issues.
- B. A PAC must **register** for each calendar year that it will have financial activity in excess of \$500 by filing a **statement of organization**. The statement of organization should be filed between **January 1 and January 31**.
- C. A PAC which organizes after January 31 or discovers after January 31 that its financial activity for the year will exceed \$500 must file a statement of organization **within 10 days** of that date. **Exception:** A PAC organized within 10 days prior to an election must file a statement of organization **within 3 days**.
- D. The **statement of organization** must be submitted on a form provided by the Supervisory Committee. The statement must contain the name and address of the committee as well as those of its officers and directors, the estimated membership of the committee, and the names and addresses of any banks or savings and loans in which the committee has deposited funds. The names and addresses and relationships of any “affiliated organizations” must also be listed. The chairman and treasurer of the PAC must sign the statement. A check for **\$100** drawn on the PAC account and payable to “Campaign Finance” must accompany the statement of organization.

- E. A PAC **with over 250 members** who contributed **at least \$50** to the PAC during the preceding calendar year may complete the certification of membership on the statement of organization form. A PAC which meets this certification may make greater contributions to candidates.
- F. Any changes that occur to the information submitted on a statement of organization should be reported by filing an **amended** statement of organization within 10 days of the change. No additional filing fee is required for an amended statement of organization.
- G. A **Certificate of Registration** is issued to all properly registered PACs.
- H. **Out-of-State PAC Rule:** An entity that (1) supports candidates in states other than Louisiana, (2) receives less than 50% of its receipts during a calendar year from persons in Louisiana, and (3) expends less than 50% of its disbursements during a calendar year, but not more than \$20,000, to support or oppose Louisiana candidates is exempted from registering and reporting in Louisiana.

III. Persons Required to File Disclosure Reports (R.S. 18:1484 and 1486)

- A. All political committees.
- B. Candidates for “Major” or “District” offices. **(terms are defined on page 3)**
- C. Each Candidate for “Any Other” public office who makes expenditures in excess of \$5,000 or receives contributions from a single source totaling in excess of \$200.
- D. Any person who makes independent expenditures in excess of \$500. (R.S.18:1501.1)
- E. Any person, other than a candidate or political committee, who solicits or receives any contribution or makes any expenditure in support of, or opposition to, a **proposition** or question submitted to the voters if the aggregate amount of contributions or expenditures equals or exceeds \$1,000. Any Candidate or political committee who solicits or receives any contribution or makes any expenditure in support of, or opposition to, a **proposition** or question submitted to the voters if the aggregate amount of contributions or expenditures equals or exceeds \$200. (R.S. 18:1486)

Note: The use of public funds to urge a voter to vote for or against a candidate or proposition is prohibited. Public funds may be used to disseminate factual information relative to a proposition. (R.S. 18:1465)

- F. Any person who files a petition to be used to seek the recall of any public officer and who collects contributions or makes expenditures in the aggregate in excess of \$200.

IV. Key Definitions (R.S. 18:1483)

- A. **“Affiliated organization”** means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

- B. **“Candidate”** is a person who seeks nomination or election to public office (except national offices and political party offices). A person is a candidate when: (1) he receives a contribution or makes an expenditure, or gives his consent for another person to do so, with a view to influencing his nomination or election to office, even if the specific office is not known, or (2) he qualifies for office.
- C. **“Contribution” and “Expenditure”** definitions hinge on supporting, opposing, or otherwise influencing the nomination or election of a person to a public office, or supporting or opposing a proposition or question submitted to the voters or a recall. “In-Kind” contributions or expenditures involve the use of something of value other than money when the value exceeds \$25.
- D. Types of Offices (Classifications are based on 2000 census figures.)
 - 1. **“Major Office”**
 - a. offices elected statewide
 - b. Public Service Commissioner, Supreme Court Justice, Court of Appeal Judges, BESE, and district court judges elected parishwide in Orleans
 - c. any office with an election district containing a population in excess of 250,000, including offices elected parishwide in Caddo, East Baton Rouge, Jefferson and Orleans.
 - 2. **“District Office”**
 - a. office of a member of the Louisiana Legislature
 - b. offices elected parishwide (except in Caddo, East Baton Rouge, Jefferson and Orleans)
 - c. offices elected in more than one parish (unless the population exceeds 250,000)
 - d. offices elected in a district with a population in excess of 35,000, but less than 250,000, including offices elected citywide in the cities of Alexandria, Bossier City, Kenner, Lafayette, Lake Charles, Marrero, Metairie, Monroe and Shreveport, and offices elected in East Baton Rouge that are not parishwide.
 - e. district court judgeships (except those in Orleans Parish); family court; juvenile; and, city court judgeships; city court marshals and city court constables.
 - f. offices elected in a city or parish election in a parish with a municipality with a population of 450,000 or more (Orleans Parish).
 - g. offices to a board or governing authority which has within its jurisdiction a municipality with a population of 225,000 or more (East Baton Rouge Parish).
 - 3. **“Any Other Office”** means offices not considered major or district, i.e., offices elected in a district having a population of 35,000 or less and not elected parishwide.
- E. **“Aggregating period”** for a PAC is one calendar year. For a person supporting a proposition, the period is from the date on which the written notice of the proposition was filed with the Secretary of State through the day of the election.
- F. **“Person”** means any individual, partnership, association, labor union, political committee, corporation, or other legal entity, including their subsidiaries.

V. Committee Officers (R.S. 18:1491.4)

- A. Each PAC must have a chairman. The chairman also serves as treasurer unless a treasurer is appointed. One or more deputy treasurers may also be appointed.

- B. Contributions may be solicited for or on behalf of the PAC by any person, provided that the contributions and information necessary to complete the PAC's disclosure report are transmitted directly to the chairman, treasurer, or deputy treasurer of the PAC.
- C. When an expenditure is made by a person other than the committee treasurer, the information about the expenditure should be transmitted directly to the treasurer.
- D. Violations of the Campaign Finance Disclosure Act by a PAC can subject the chairman and treasurer of the PAC to civil penalties of up to \$10,000.

VI. Recordkeeping and Reporting (R.S. 18:1491.4, 18:1491.5 and 18:1491.7)

- A. Records of receipts and disbursements of PACs and persons supporting or opposing propositions or recalls must be maintained by the treasurer for six years.
- B. The chairman of the PAC must designate one or more **banks or savings and loans or money market funds** as a depository for committee funds. All receipts must be deposited into an account maintained at the depository and all expenditures (except for petty cash) should be by check drawn on the account. The memo line of the check should indicate the objects or services for which it is drawn.

Petty Cash Exception: A petty cash fund may be maintained. Expenditures may be made in cash from the fund and the fund shall, from time to time, be restored to its original amount. No expenditure in excess of \$100 may be made from the fund and no expenditure shall be made from the petty cash fund for any personal services, except tips for serving food and drink. A complete record shall be kept of all expenditures made from a petty cash fund and a receipt shall be kept in any case in which a receipt would be provided in the usual course of business. Petty cash expenditures must be itemized as all other expenditures on the disclosure forms.

- C. Records are required to be kept of every contribution, including the **sale of tickets** to testimonials or other fundraising events. The date, amount, and name and address of the contributor must be recorded and reported. (PACs receiving over 10,000 contributions of \$24 or less by a payroll deduction or dues check-off system may only be required to list contributors once a year.)

Exception: Records are not required to be kept of the name and addresses of individual purchasers of campaign paraphernalia for \$25 or less. The total amount received and deposited from campaign paraphernalia sales must be recorded and reported. Paraphernalia sales are still contributions and successive single sales may not be used to avoid the recordkeeping requirements.

- D. **Cash contributions** are subject to a \$100 per person limit during the calendar year. The cash contributor must be given a receipt containing name, address, Social Security Number and signature of contributor as well as date and amount of contribution. (The contributor's social security number is not reported on the disclosure forms.)

- E. Records are required to be kept of every expenditure, including those made by a public relations firm, advertising agency or agent. The date, amount and name and address of the recipient must be recorded and reported. The public relations firm, advertising agency or agent must collect the information required to complete the committee's report and furnish it on a timely basis.
- F. Every transaction involving receipts or disbursements must be reported, regardless of amount.

VII. Reporting Deadlines (R.S. 18:1491.6)

Note: A specific reporting schedule is available for each election. Reporting and filing schedules are available on our website. Reports are filed when received, when postmarked or receipted on a return receipt request if sent by United States Mail, when received electronically, or when deposited for delivery with a commercial delivery service as indicated on a receipt.

Political committees that receive contributions in excess of \$50,000 or make expenditures in excess of \$50,000 in a calendar year must electronically file disclosure reports. The L.E.A.D.E.R.S. software used for electronic filing can be downloaded from our website at www.ethics.state.la.us. To begin filing electronically, a password and identification number must be submitted at least five business days prior to a reporting deadline.

- A. **ANNUAL REPORTS** are filed for each PAC no later than February 15 of each year and are complete as of the preceding December 31.

Exceptions: An annual report is not due (1) if another required report was filed any time after the preceding December 10 and prior to the February 15 due date, or (2) if the PAC has received no contributions, made no expenditures, and received or made no loans during the reporting period.

- B. PACs have the option of filing reports on a monthly basis. **MONTHLY REPORTS** are due no later than the 10th day of the month following a month in which the committee accepts a contribution or receipt or makes an expenditure or disbursement. The Political Committee Notice of Monthly Filing must be submitted to this office at least 45 days prior to the due date for the next required report. The first monthly report is due by the 10th of the month following the month in which the notification is delivered. The form and additional information regarding monthly filing is available on our website.
- C. PAC's who do not file monthly reports file according to the **CANDIDATE'S REPORTING AND FILING SCHEDULE**. PACs begin filing reports according to the date they make contributions or expenditures in support of or opposition to a candidate and reports are filed following the reporting and filing schedule for the specific election they are participating. PACs electing to file reports on the same schedule as the candidates they support or oppose must file reports as follows:
 - 1. **180 DAYS PRIOR TO THE PRIMARY ELECTION (180-P)** Filed only by PACs supporting or opposing major office candidates.
 - 2. **90 DAYS PRIOR TO THE PRIMARY ELECTION (90-P)** Filed only by PACs supporting/opposing major office candidates.

3. **30 DAYS PRIOR TO THE PRIMARY ELECTION (30-P)**
4. **10 DAYS PRIOR TO THE PRIMARY ELECTION (10-P)**
5. **ELECTION DAY EXPENDITURES (EDE-P) REPORT** for election day workers and advertisements. Name and address of all election day workers must be reported. Report is only required if election day expenses are made.
6. **10 DAYS PRIOR TO THE GENERAL ELECTION (10-G)** Last report required for PACs not participating in general election.
7. **ELECTION DAY EXPENDITURES (EDE-G) REPORT** for election day workers and advertisements. Name and address of all election day workers must be reported. Report is only required if election day expenses are made.
8. **40 DAYS AFTER THE GENERAL ELECTION (40-G)** Filed only by PACs participating in the general election.

- D. **Affidavits in Lieu of Reports:** PACs which support or oppose candidates for major or district offices and do not spend over \$5,000 or receive contributions from one source totaling in excess of \$200 may file an affidavit in lieu of each report required above. A separate affidavit is required for each report and once a PAC exceeds either of the threshold amounts it may not return to filing affidavits during that calendar year.
- E. **Special Reports** are required during the 20 day period immediately preceding an election if: a contribution or loan in excess of \$1,000 for PACs supporting/opposing major office candidates or \$500 for district office candidates, or \$250 for any other office candidates is received and accepted during the 20 day period, or an expenditure in excess of \$200 is made during the 20 day period to a person required to file disclosure reports who makes endorsements. PACs electing to file monthly reports are **NOT** required to file Special Reports. **Note:** Special Reports must be filed within 48 hours after the transaction.
- F. **Supplemental Reports** are required to be filed annually by February 15, complete through the preceding December 31, if the last report of a PAC for an election shows outstanding debts or loans. **Exception:** A supplemental report need not be filed if the PAC is dissolved or disbanded and shows outstanding debts and loans totaling less than \$2,500.
- G. **Proposition Elections:** Reports are required 30 days prior to the election, 10 days prior to the election and 40 days after the election. Special reports are required for any contribution or expenditure in excess of \$200 during the 20 day period immediately preceding the election.
- H. **Recall Elections:** Statement of organization is required within 3 days of the filing of the recall petition. Reports are due 45 days, 135 days, and 200 days after the filing of the recall petition. If the recall effort is successful, the rules for proposition elections then apply.

VIII. Contribution Limits (R.S. 18:1505.2 H, K)

Contributions, in-kind contributions, loans, endorsements or guarantees on loans and transfers of funds are all counted towards the contribution limits.

Exception: Loans to the political committee (without endorsements or guarantors) from state banks, federally chartered depository institutions, depository institutions with insured accounts, licensed lenders or insurance companies do not count towards the limits.

The contribution limits are detailed in the following chart:

| | To a major office candidate or candidate committee per election ¹ | To a district office candidate or candidate committee per election ¹ | To an any other office candidate or candidate committee per election ¹ | To a PAC between 1/1/11 and 12/31/14 |
|---|--|---|---|--|
| Individual may give ² | \$5,000 | \$2,500 | \$1,000 | \$100,000 |
| Family Member of Candidate may give | \$5,000 | \$2,500 | \$1,000 | \$100,000 |
| Legal Entity may give ³ | \$5,000 | \$2,500 | \$1,000 | \$100,000 |
| PAC may give ⁴ | \$5,000 | \$2,500 | \$1,000 | \$5,000/2,500/1,000 ⁶ (\$100,000 Party PAC's ⁷) |
| Big PAC ⁵ may give ⁴ | \$10,000 | \$5,000 | \$2,000 | \$10,000/5,000/2,000 ⁶ (\$100,000 Party PAC's ⁷) |
| Democratic or Republican Party or committees may give | no limits | no limits | no limits | no limits |

¹ The primary and general elections are considered as two separate elections.

² A husband and wife may each make contributions to the same candidate up to the limit. However, separate checks should be used. If a single check is signed by one spouse, the other must provide an affidavit as to their intent to share in the contribution.

³ Includes legal entities owned wholly or partially by candidates, except Internal Revenue Code Sub-chapter S corporations and limited liability companies wholly owned by the candidate. Parent corporations and their subsidiaries are subject to a single limit. A corporation is a parent if it owns 50% of another corporation.

⁴ Candidates are also subject to an aggregate limit on the contributions they may accept from all PACs combined for both the primary and general elections. Those limits are: \$80,000 - major office \$60,000 - district office \$20,000 - any other office

⁵ A PAC with over 250 members who contributed over \$50 to the PAC during the preceding calendar year and has been certified by the Ethics Administration as meeting that membership requirement.

⁶ The applicable limit is determined by the level of office sought by the candidates supported/opposed by the recipient PAC, e.g., a contribution by a PAC to another PAC supporting only major office candidates is subject to the \$5,000 limit (or the \$10,000 limit if the contributor is a Big PAC). If the PAC receiving the contribution supports candidates for more than one type of office, then the highest limits shall apply.

⁷ Contributions made by a political committee to a recognized political party or any committee thereof is \$100,000.

IX. Prohibited Practices (R.S. 18:1505.2)

- A. Failure to file or failure to **timely file** a required report. Automatic penalties of at least \$200 per day will be assessed for late reports.
- B. Making contributions or loans through or in the **name of another**.
- C. Using funds from an **anonymous** source. Anonymous contributions must be transmitted to the State.
- D. Making or receiving **cash** contributions in excess of \$100 in a calendar year per source. Any cash contribution must be evidenced by a receipt containing the name, address, social security number and signature (or mark) of the contributor.
- E. Making or receiving payments, including reimbursements of costs, for the **transportation** of any voter to a polling place or for absentee voting unless the payment is to a licensed bus, taxi, or transportation service. (R.S. 18:1531) Medical transportation services do not qualify to receive payments for transporting voters.
- F. Making expenditures in excess of \$100 from a petty cash fund or making cash payments for personal services, except for tips for serving food or drink.
- G. Contributions or expenditures made by a **corporation**, labor organization, or trade, business, or professional association unless specifically authorized by either (1) a vote of the board of directors or executive board, or (2) the president, vice-president, secretary or treasurer of a corporation or labor organization whom the board has specifically empowered to authorize such contributions or expenditures, or, for a corporation, by any other person designated by resolution of the board of directors, or (3) a vote of the membership of the labor organization. Cash contributions in any amount by a corporation, labor organization, or trade, business or professional organization are prohibited.
- H. Financial activity over \$500 in a calendar year by a political committee that has failed to file a statement of organization and contributions by a candidate to any political committee which should have filed a statement of organization but failed to do so. Committees that have filed statements of organization are issued certificates of registration by the Supervisory Committee on an annual basis.
- I. Contributions received by a PAC may be expended for any legal purpose, but may not be used for any personal use unrelated to a political campaign or the holding of public office. PAC funds may be used for administrative costs and operating expenses. Surplus funds may be: (1) returned to contributors on a pro rata basis, (2) given as an IRS approved charitable donation, (3) expended in support of or opposition to a candidate, a proposition, or a political party, or (4) maintained for future campaigns. (This prohibition does not apply to funds received prior to July 15, 1988.)
- J. Coercing or attempting to coerce a person to make or withhold a contribution or affecting an individual's employment based on a contribution or the failure to make a contribution.

K. Persons substantially interested in the gaming industry* are prohibited from making contributions and loans to candidates and political committees that support or oppose candidates. Prohibited sources** include:

- (1) any person who, pursuant to the Louisiana Riverboat Economic Development and Gaming Control Act, holds a license to conduct gaming activities on a riverboat, holds a license or permit as a distributor, supplier, or manufacturer of gaming devices or equipment including slot machines, or owns a riverboat,
- (2) any person who, pursuant to the Louisiana Economic Development and Gaming Corporation Act, holds a license or entered into a contract to conduct casino gaming activities, holds a license or permit as a distributor or manufacturer of gaming devices or equipment including slot machines, or owns a casino where gaming operations are licensed,
- (3) any person who has a direct or indirect "interest" in any legal entity included in (1) & (2) ("Interest" means ownership by an individual or spouse, individually or collectively, of more than 10% of any legal entity. An indirect interest is ownership through any number of layers of legal entities when 25% or more of each legal entity is owned by the legal entity ownership beneath it),
- (4) any holding, intermediary, or subsidiary company of any person in (1) & (2) and any officer, director, trustee or partner thereof,
- (5) any officer, director, trustee, partner, or senior management level employee or key employee (as defined in R.S. 4:605(19)) of any person included in (1) - (4),
- (6) any person subject to provisions of R.S. 4:523C(4), 626C(4), or 661D, and
- (7) the spouse of any person included in (1) - (6).

*The statute includes members of the video poker industry in the list of prohibited sources of contributions. However, the Louisiana Supreme Court in Penn v. State of Louisiana, 99-2337 (La. 10/29/99), 751 So.2d 823 concluded that this prohibition was unconstitutional as applied to those interested in the video poker gaming industry.

** These rules do not prohibit a candidate from using personal funds for his own campaign.

Penalties for Violations:

- (1) Upon notification of the Supervisory Committee candidates or committees who accept illegal gaming contributions must pay those contributions over to the state within 10 days of the notification.
- (2) Contributors violating this ban are subject to civil penalties of up to \$10,000, criminal penalties, and will be rendered unsuitable to hold the license which made the contributor subject to the ban.

Note: This outline was produced by the Louisiana Ethics Administration Program, Post Office Box 4368, Baton Rouge, LA 70821; Website: www.ethics.state.la.us. It is intended as a summary of reporting requirements. It does not purport to fully state the law. For further information, reporting forms, and schedules of reporting and filing dates for particular elections, please refer to the CFDA at LSA-R.S. 18:1481 et seq.